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December 20, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
Room TW-A325
445 Twelfth Street, SW, Portals II
Washington, DC 20554

Re: CIX and ITAA Request For Extension of Sunset Date of Safeguards Governing
BOC Provision of In-region InterLATA Information Services, CC Docket No.
96-149

Dear Ms. Salas,

AT&T Corp.'s comments in the above-captioned matter were filed with the Commission on December 17, 1999. Because the Public Notice originally released concerning this matter (on December 7, 1999) indicated that the docket number was to be CC Docket No. 96-147, AT&T listed that docket number on its comments. Although the Commission released a revised Public Notice on December 9, 1999 changing the docket number to CC Docket No. 96-149, counsel for AT&T did not become aware of this change until the date of this letter.

Please replace the comments AT&T filed on December 17, 1999 with the enclosed version of AT&T's comments, which shows the correct docket number. If you have any questions concerning this document, please do not hesitate to contact me at 908-221-4617.

Sincerely,

James H. Bolin, Jr.
James H. Bolin, Jr. */s/*

Enclosure



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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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DEC 20 1999
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In the Matter of

Request for Extension of the Sunset Date of the
Structural, Non-Discrimination, and Other
Behavioral Safeguards Governing Bell Operating
Company Provision of In-Region, Inter-LATA
Information Services

CC Docket No. 96-149

COMMENTS OF AT&T CORP.

Pursuant to Section 1.1 of the Commission's Rules, 47 C.F.R. § 1.1, and the Public Notice released December 7, 1999, AT&T Corp. ("AT&T") hereby submits its comments on the petition by the Commercial Internet eXchange Association and the Information Technology Association of America (collectively, "Petitioners"). The Petition requests, pursuant to 47 U.S.C. § 272(f)(2), that the Commission extend for at least two years the sunset date for the separation, accounting and nondiscrimination safeguards governing Bell Operating Company ("BOC") provision of in-region, inter-LATA information services. AT&T strongly supports the Petitioners' request, and urges the Commission to grant it forthwith.

As the Petition persuasively demonstrates, Congress crafted the market-opening provisions of the 1996 Act according to a straightforward plan. In order to obtain in-region interLATA authority, the BOCs must comply with the "checklist" and other requirements of § 271. As the Commission has long acknowledged, however, even upon complying with § 271, a BOC will retain significant market power -- as well as the ability to abuse that power. "In enacting section 272, Congress recognized that the local exchange market will not be fully

competitive immediately upon its opening."¹ Accordingly, "Congress ... enacted section 272 to respond to the concerns about anticompetitive discrimination and cost-shifting that arise when the BOC enters the interLATA services market in an in-region state in which the local exchange market is not yet fully competitive."²

Although § 272(f)(2) provides that the requirements of § 272 (other than § 272(e)) potentially sunset as early as four years after the 1996 Act's date of enactment, that subsection expressly permits the Commission extend that sunset date, without limitation. Given the clear intent of § 272 to protect both consumers and competitive markets from abuses of BOC market power, there can be no serious opposition to the Commission's acting to extend § 272(f)(2)'s sunset provision beyond the February 8, 2000 date that will otherwise apply. As of the date of these comments, not a single BOC has complied with the market-opening requirements of § 271. If the Commission permits § 272's information services provisions to sunset in February, it will effectively nullify the detailed provisions Congress created in order to ensure the transition from monopoly control of local markets to full and fair competition.

As the Petition demonstrates, Congress plainly did not anticipate that the BOCs would litigate and stonewall for four years or more following passage of the 1996 Act, rather than complying with the terms that statute established for in-region interLATA relief. To take

¹ First Report and Order and Further Notice of Proposed Rulemaking, Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Telecommunications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489 (released Dec. 24, 1996), ¶ 9.

² Second Order on Reconsideration, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Action of 1934, As Amended, FCC 97-222, CC Docket No. 96-149, (released June 24, 1997), ¶ 5.

the most obvious example, it scarcely would have made sense to include a "biennial audit" provision in § 272(d) unless the legislature assumed that at least some substantial portion of the nation's BOCs would be providing in-region interLATA information services under the § 272 regime for a period of at least two years. Nevertheless, Congress was not so shortsighted as to permit the BOCs to simply "wait out" the § 272 requirements. Instead, § 272(f)(2) expressly permits the Commission to extend that section's sunset date indefinitely. The instant Petition plainly presents a compelling case for extending sunset by at least two years.

Finally, the Commission should not be distracted by the BOCs' inevitable complaints that the 1996 Act is "deregulatory" or that it is somehow "unfair" to impose the burden of a separate affiliate requirement on them, but not on their competitors. In amending the Communications Act, it is indisputably true that Congress sought to deregulate the nation's telecommunications markets. The structure of the 1996 Act makes plain, however, that Congress determined that deregulation was not simply a matter of permitting BOC monopolists to enter previously prohibited markets. Instead, the BOCs first had to meet § 271's carefully crafted requirements intended to make local competition possible; then the BOCs were to operate under § 272's regime of separation, accounting and nondiscrimination safeguards until their market power had dissipated sufficiently that it no longer posed a threat to consumers or competition. This gradual deregulatory scheme also explodes the canard that it is "unfair" to force the BOCs to comply with a separate affiliate requirement. To the extent that the BOCs complain that they should not bear the burden of § 272 when their competitors do not, their quarrel is with the 1996 Act, not with the Petition.

CONCLUSION

For the reasons stated above and in the Petition, AT&T urges the Commission to grant the Petitioners request to extend for at least two years the sunset date for the separation and nondiscrimination safeguards governing the BOCs' provision of in-region, inter-LATA information services.

Respectfully submitted,

AT&T CORP

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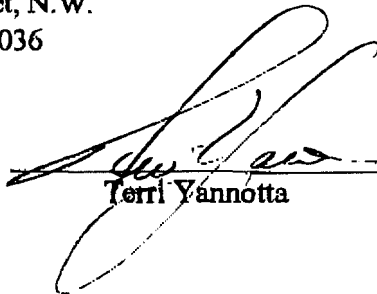
December 17, 1999

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 17th day of December, 1999, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the parties listed below:

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December 17, 1999